IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

WP(C).No. 17736 of 2006(J)

OS.895/2001 OF PRINCIPAL MUNSIFF COURT, ERNAKULAM

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PETITIONER:

BABU THOMAS,
S/0.THOMMAN, AGED 47 YEARS,
RESIDING AT PARAVARA HOUSE,
PATTANCHERRY ROAD, POONITHURA.

BY ADV. SRI.SABU THOZHUPPADAN.K.

RESPONDENTS:

1. **P.K.JAMES,**
   S/O.KURIAKO, AGED 67 YEARS,
   RESIDING AT PARAVARA HOUSE,
   MUKKOTTIL TEMPLE ROAD, POONITHURA VILLAGE,
   KANAYANNOOR TALUK, ERNAKULAM.

2. **SUNIL KUMAR.P.J,**
   S/O.JAMES, AGED 29 YEARS,
   RESIDING AT PARAVARA HOUSE,
   MUKKOTTIL TEMPLE ROAD,
   POONITHURA VILLAGE, KANAYANNUR TALUK,
   ERNAKULAM.

BY ADV. SRI.P.R.JAYAKRISHNAN,
SRI.A.BIJU MANOHAR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.17736/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE I.A. NO. 22/03 IN O.S. NO. 895/01 ON THE FILE OF PRINCIPAL MUNSIFF'S COURT, ERNAKULAM.

EXT.P.2: COPY OF THE FINAL REPORT DTD. 30/09/04 WITH SY. SKECH IN I.A. 22/03 IN O.S. NO. 895/01 ON THE FILE OF PRINCIPAL MUNSIFF'S COURT, ERNAKULAM.

EXT.P.3: COPY OF THE OBJECTION DTD. 04/11/04 TO COMMISSION REPORT IN I.A. 22/03 IN O.S. NO. 895/01 ON THE FILE OF PRL. MUNSIFF'S COURT, ERNAKULAM.

EXT.P.4: COPY OF THE INTERIM REPORT DTD. 25/11/05 IN I.A. 22/03 IN O.S. 895/01 OF PRL. MUNSIFF'S COURT, ERNAKULAM.

EXT.P.5: COPY OF THE I.A. 357/06 IN O.S. 895/01 OF PRL. MUNSIFF'S COURT, ERNAKULAM.

EXT.P.6: COPY OF THE I.A. 2981/06 IN O.S. 895/01 OF PRL. MUNSIFF'S COURT, ERNAKULAM.

EXT.P.7: COPY OF THE COUNTER AFFIDAVIT DTD. 29/03/2005 IN I.A. 2981/06 IN O.S. NO. 895/01 OF PRL. MUNSIFF'S COURT, EKM.

EXT.P.8: COPY OF THE DIARY PROCEEDINGS DTD. 14/06/2006 IN O.S. 895/01 OF PRINCIPAL MUNSIFF'S COURT, ERNAKULAM.

//TRUE COPY//

prv.

PIUS C. KURIAKOSE, J.

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W.P.(C)No.17736 OF 2006

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DATED THIS THE 3RD JULY, 2007

J U D G M E N T

Ext.P8 order by which the learned Munsiff has decided that I.A.Nos.357 of 2006 and 2981 of 2006 (Exts.P5 and P6) can be considered later on the basis of the evidence which the parties adduce is under challenge in this Writ Petition under Article 227 of the Constitution initiated by the plaintiff.

2. Heard Sri.K.Sabu Thozhuppadan, counsel for the petitioner. According to counsel, the suit itself has been listed for trial and prejudice will be occasioned to the petitioner if the learned Munsiff tries the suit simultaneously with the enquiry on I.A.Nos.357 of 2006 and 2981 of 2006. I cannot agree. I do not find any infirmity about Ext.P8 order as to warrant interference under the supervisory jurisdiction of this Court which is visitorial in nature and is expected to be invoked only in very exceptional circumstances. But, even as I confirm Ext.P8, I direct the learned Munsiff to permit the parties to adduce evidence on I.A.Nos.357 of 2006 and 2981 of 2006 also as the suit is being tried. After the entire evidence comes on record, the parties will be heard initially on I.A.Nos.357 of 2006 and 2981 of 2006 and the court will pass orders on those I.As. before final

judgment is delivered in the suit. The approval granted by this Court to Ext.P8 will not stand in the way of the court allowing I.A.Nos.357 of 2006 and 2981 of 2006, if the court is convinced on the basis of the evidence adduced by the parties that there is justification for allowing those I.As.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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